

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**SOUTHERN STATES POLICE BENEVOLENT )  
ASSOCIATION, INC., DENNIS WILCOX, and )  
GEORGE KING and the LOWELL )  
MASSACHUSETTS POLICE DEPARTMENT, )  
On Behalf of Themselves And All Others )  
Similarly Situated, )**

**Plaintiffs,**

**vs.**

**FIRST CHOICE ARMOR & EQUIPMENT, INC.)  
EDWARD R. DOVNER and KAREN HERMAN, )**

**Defendants.**

**CIVIL ACTION FILE NO.  
06-CA-10034-NMG**

**PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

Pursuant to F.R.C.P. 23(a) and 23(b)(3), the above-named Plaintiffs ("Named Plaintiffs")  
move for entry of an order regarding class certification as follows:

**1. Certification of a Class**

Certifying this action as a class action pursuant to F.R.C.P. 23(b)(3) on behalf of  
the following class as to Defendant First Choice on all counts in Plaintiffs' Complaint  
(hereinafter the "Class):

Class

All law enforcement personnel, organizations and other individuals and entities in Arizona, California, Colorado, Connecticut, the District of Columbia, Georgia, Florida, Louisiana, Massachusetts, Maryland, Michigan, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas and Washington who purchased new First Choice Armor & Equipment Inc. vests, including K-9 vests, containing Zylon from January 3, 2000 through January 3, 2006, excluding Defendants, First Choice's affiliates, parents and subsidiaries, all directors, officials, agents, and employees of First Choice, First Choice

distributors, federal agencies and any persons who have been physically injured as a result of the defects in the vests.

Additionally, Plaintiffs respectfully request the Court to certify the following subclass on Count V of Plaintiffs' Complaint as to all Defendants (Unfair and Deceptive Trade Practices/Consumer Protection)("Subclass A):

Subclass A

All law enforcement personnel, organizations and other individuals and entities in Arizona, California, Colorado, Florida, Massachusetts, New York, Texas and Washington who purchased new First Choice Armor & Equipment Inc. vests, including K-9 vests, containing Zylon from January 3, 2000 through January 3, 2006, excluding Defendants, First Choice's affiliates, parents and subsidiaries, all directors, officials, agents, and employees of First Choice, First Choice distributors, federal agencies and any persons who have been physically injured as a result of the defects in the vests.

In the event the Court determines that this limited state subclass on Count V of Plaintiffs' Complaint is not appropriate, Plaintiffs' respectfully request the Court to certify a Massachusetts only subclass pursuant to M.G.L. c 93A as to all Defendants ("Subclass B"):

Subclass B

All law enforcement personnel, organizations, and other individuals and entities in the Commonwealth of Massachusetts who purchased new First Choice Armor & Equipment Inc. vests, including K-9 vests, containing Zylon from January 3, 2000 through January 3, 2006, excluding Defendants, First Choice's affiliates, parents and subsidiaries, all directors, officials, agents, and employees of First Choice, First Choice distributors, federal agencies and any persons who have been physically injured as a result of the defects in the vests.

2. Other Related Relief

- a. Appointing the Named Plaintiffs as representatives of the class;
- b. Appointing counsel for the Named Plaintiffs as counsel for the Class;
- c. Appointing W. Pitts Carr and David M. Cohen Lead Class Counsel;

- d. Requiring the issuance of appropriate notice to the Class.
- e. Ordering such other and further relief related to the maintenance of a class action as the Court deems just and appropriate.

Filed in support hereof are Plaintiffs' Memorandum of Law in Support of Class Certification, the Declaration and Affirmations of W. Pitts Carr, David M. Cohen, Michael Appel (Exhibit 22 to Plaintiffs' Memorandum filed herewith) the Affidavits of the Southern States Police Benevolent Association, Robert Dyer, George King and Dennis Wilcox (Exhibit 18 to Plaintiffs' Memorandum filed herewith), and a supporting brief.

**REQUEST FOR ORAL ARGUMENT**

Plaintiffs respectfully request oral argument on their Motion for Class Certification.

Respectfully submitted, this 16th day of October, 2006.

**CARR, TABB & POPE, LLP**

/s/ David M. Cohen

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2006, a true copy of the above document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

also via first-class mail to:  
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/s/ David M. Cohen  
David M. Cohen